

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO.

04 12577 JLT

CRAIG GOULET,
Plaintiff

MAGISTRATE JUDGE JLT

v.

COMPLAINT

NEW PENN MOTOR EXPRESS, INC., and
TEAMSTERS LOCAL 25,
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS,
Defendants

RECEIPT # 60683
AMOUNT \$ 150
SUMMONS ISSUED yes
LOCAL RULE 4.1
WAIVER FORM
MCF ISSUED
BY DPTY. CLK. F.O.M.
DATE 12/9/04

1. This is an action under 29 U.S.C. §185.
2. Plaintiff Craig Goulet is an individual who resides in Hudson, Massachusetts.
3. Defendant New Penn Motor Express, Inc. (hereinafter known as "New Penn") is a corporation engaged in the trucking business. It does business in Massachusetts, having a trucking terminal in Billerica, Massachusetts.
4. Defendant Teamsters Local 25, International Brotherhood of Teamsters (hereinafter known as "Local 25") is a labor organization as that term is defined for the purposes of 29 U.S.C. §185, having offices in Boston, Massachusetts.
5. Goulet has been a member of Local 25 since approximately 1987. Goulet has been a member of the Teamsters Union since approximately 1979 at which time he began working in the trucking industry in various capacities for various employers.
6. As of March, 1987, Goulet was working for a trucking company called A.P.A. Transport Corporation at its Canton, Massachusetts, terminal. A.P.A. Transport Corporation had a

collective bargaining agreement with Local 25, and Goulet was covered by that collective bargaining agreement.

7. Goulet was severely injured on the job at A.P.A. Transport Corporation on March 11, 1987. By letter dated March 12, 1987, A.P.A. Transport Corporation terminated Goulet's employment effective March 11, 1987, alleging that Goulet's accident was caused by his gross negligence.
8. Goulet grieved his termination from A.P.A. Transport Corporation through Local 25 under its collective bargaining agreement with A.P.A. Transport Corporation.
9. On October 16, 2001, Goulet's termination grievance was presented to the Southern New England Joint Area Committee, and a decision was rendered in favor of Goulet, reinstating him to his former position at A.P.A. Transport Corporation.
10. Goulet was placed back on the A.P.A. Transport Corporation seniority list as of November, 2001.
11. In approximately mid February, 2002, A.P.A. Transport Corporation ceased operations.
12. When A.P.A. Transport Corporation ceased operations, defendant New Penn purchased some of the assets of A.P.A. Transport Corporation and negotiated an agreement with Local 25 whereby all employees with seniority at A.P.A. Transport Corporation had the right to be put on the New Penn call list within the area where they currently are employed.
13. When A.P.A. Transport Corporation closed its operation, Goulet spoke to a Local 25 Steward at A.P.A. Transport Corporation named Doug Francey and indicated that he wanted to be put on the New Penn call list for the Billerica, Massachusetts, terminal.
14. Despite being on A.P.A. Transport Corporation's seniority list, New Penn, in violation of its

agreement with Local 25, never put Goulet on New Penn's call list and never gave Goulet the opportunity to bid on a location. Goulet was not put on the New Penn call list for the Billerica, Massachusetts, terminal.

15. On April 7, 2003, Goulet filed a grievance with Local 25 against New Penn for violation of the National Freight Agreement along with the New England Supplemental Freight Agreement due to its failure to abide by the agreement between TNFINC and NPME as a result of the closure of A.P.A. Transport Corporation.
16. On July 28, 2004, Goulet's grievance was presented to the Eastern Region Joint Area Committee, and a decision was rendered in favor of New Penn, on the basis that Local 25 had not docketed the case within thirty (30) days.
17. Under Article 7, Section 2, paragraph 9 of the National Freight Agreement along with the New England Supplemental Freight Agreement, a local union must file all approved grievances with the appropriate grievance committee or association for decision no later than 30 days after the local union receives the grievance.
18. Upon information and belief, Local 25 never filed Goulet's grievance against New Penn to any grievance committee or association.
19. When New Penn failed to put Goulet on its call list, it breached the collective bargaining agreement then in effect between New Penn and Local 25
20. Local 25's failure to timely file and pursue Goulet's grievance against New Penn was arbitrary, capricious and in bad faith. As such, Local 25 breached its duty of fair representation with regard to Goulet and his grievance.
21. Due to said breach by Local 25, Goulet hereby also brings this action against New Penn

directly for its breach of the collective bargaining agreement with regard to its failure to put him on the call list.

22. New Penn's failure to put Goulet on its call list has caused Goulet to suffer damages.

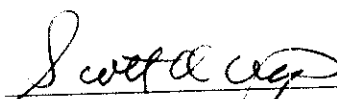
WHEREFORE plaintiff demands:

- A. Judgment against the defendants;
- B. Proper placement on New Penn's call list;
- C. All lost moneys and benefits;
- D. Compensatory damages;
- E. Punitive damages;
- F. Attorney's fees;
- G. Interest and costs; and
- H. Any other remedy this Court deems meet and just.

PLAINTIFF DEMANDS A JURY TRIAL

Craig Goulet

By his attorney



Scott A. Lathrop, Esq.
Scott A. Lathrop & Associates
122 Old Ayer Road
Groton, MA 01450
(978) 448-8234
BBO No. 287820

Dated: December 9, 2004

CIVIL COVER SHEET

JS 44

(Rev. 07/89)

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I (a) PLAINTIFFS

CRAIG GOULET

DEFENDANTS

NEW PENN MOTOR EXPRESS, INC., and
TEAMSTERS, LOCAL 25, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES) MIDDLESEX

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY) MIDDLESEX
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

SCOTT A. LATHROP, P.C.
122 OLD AYER ROAD
GROTON, MA 01450
978-448-8234

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (For Diversity Cases Only)

Citizen of This State PTF DEF ☒ 1 ☒ 1
Citizen of Another State ☐ 2 ☐ 2
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3

PTF DEF
Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4
Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5
Foreign Nation ☐ 6 ☐ 6

IV. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

VIOLATION OF LABOR AGREEMENT AND DUTY OF FAIR REPRESENTATION, UNDER 29 USC 185

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 366 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input checked="" type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Transportation <input type="checkbox"/> 410 Arbitration <input type="checkbox"/> 420 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Other			

VI. ORIGIN

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 ☐

DEMAND \$

LOST MONIES

Check YES only if demanded in complaint: JURY DEMAND: ☒ YES ☐ NO

VIII. RELATED CASE(S) IF ANY

JUDGE

DOCKET NUMBER

NONE

DATE

SIGNATURE OF ATTORNEY OF RECORD

UNITED STATES DISTRICT COURT